Nova Scotia Utility and Review Board
Annual Accountability Report
For the Fiscal Year Ended March 31, 2005

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Accountability Statement

The accountability report of the Nova Scotia Utility and Review Board for the year ended March 31, 2005, is prepared according to the **Provincial Finance Act** and government policy and guidelines. These authorities require the reporting of outcomes against the Board's business plan for the fiscal year 2004-2005. The reporting of the such outcomes necessarily includes estimates, judgements and opinions by management.

We acknowledge that this accountability report is the responsibility of the Board's management. The report is, to the extent possible, a complete and accurate representation of outcomes relative to the goals and priorities set out in the Board's business plan for the year.

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Peter W. Gurnham, Q.C., Chair

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Paul G. Allen, CA, Executive Director

Introduction

1. This accountability report reflects on progress made in achieving the goals and priorities set out in the 2004-2005 business plan of the Board, and to describe other significant activities and accomplishments during the year. The 2004-2005 business plan more fully describes the Board's core business functions, goals and priorities for the year. We recommend that this accountability report be read in conjunction with the business plan.

Mandate

2. The Board is a quasi-judicial body created by the **Utility and Review Board Act, S.N.S. 1992 c.11**. The Board has regulatory and adjudicative jurisdiction to hear applications and appeals under a number of statutes including, but not limited to, the **Public Utilities Act, Assessment Act, Municipal Government Act, Revenue Act, Motor Carrier Act, Expropriation Act, Victims of Crime Act, Gaming Control Act, Liquor Licensing Act, Gas Distribution Act, Pipelines Act, Fire Safety Act** and **Education Act**. A complete list of statutes is attached as Appendix A.

3. The following is a brief description of the Board's responsibilities under various Acts. For ease of understanding the various functions are classified as regulatory or adjudicative in nature.

Regulatory Matters

4. Public Utilities. The Board exercises general supervision over all water, electrical, and steam heat utilities within the Province. This includes setting rates, tolls and charges; approval of regulations for provision of service; approval of capital expenditures in excess of $25,000; and any other matter the Board feels necessary to properly exercise its mandate. Nova Scotia Power Inc., an investor-owned utility, is the largest public utility regulated by the Board.

5. Halifax - Dartmouth Bridges. The Board is required to set the rates, tolls and charges to be paid for use of the two bridges which cross Halifax Harbour and are operated by the Halifax-Dartmouth Bridge Commission.

6. Motor Carrier. The Board is responsible for a comprehensive safety inspection program and economic regulation of all public passenger carriers within the Province, and interprovincial carriers operating to and from the Province. Carriers are broadly defined to include not-for-profit carriers and school bus operations, as well as commercial bus companies. Commercial van operations are also included in the safety program but are not economically regulated. Economic regulation includes setting fares, approving routes and stops, approving equipment for use, hearing complaints against carriers, and hearing applications for modification or discontinuance of service.

7. Natural Gas. The Board has responsibility for regulation of the distribution of natural gas in Nova Scotia including pipelines. That includes, but is not limited to, selection of franchisees, approval of construction plans and issuance of operating permits.

8. Alcohol, Gaming and Amusements. The Board hears applications involving licensing and discipline of establishments authorized to sell liquor; licensing and discipline relating to gambling operations; and appeals of film classifications. Applications for reinstatement of access to casinos by persons who have voluntarily excluded themselves are also heard by the Board.

9. Railways. The Board has regulatory responsibilities relating to licensing of short line railways which operate wholly within the Province.

Adjudicative Matters

10. Planning. The Board hears appeals from municipal councils relating to amendment of land-use by-laws and staff decisions concerning issuance or amendment of development agreements.

11. Municipal and School Board Electoral Boundaries. The Board also hears applications to establish and amend boundaries of municipalities, including towns and regional municipalities. The Board sets polling district boundaries and determines the number of councillors for each municipality. The Board sets school board electoral district boundaries and determines the number of school board members.

12. Assessment. The Board hears appeals from decisions of the Regional Assessment Appeal Courts respecting real property and business occupancy assessments and change of use tax levies.

13. Expropriation Compensation. Where a property owner and an expropriating authority cannot agree on the compensation to be paid for expropriated land an application can be made to the Board to set the value.

14. Victims' Rights and Services Compensation. The Board hears appeals from the decisions of the Director of Victim Services at the Department of Justice concerning compensation for certain expenses incurred by victims of crime.

15. Fire Safety Certain orders of the Fire Marshal or other fire officials made under the Fire Safety Act may be appealed to the Board.

Highlights

16. The following were the most prominent matters during the year requiring significant effort or resources:

a. A major hearing relating to NSPI (Nova Scotia Power Inc.) rates, tolls, charges and service regulations.

b. Preparation for a hearing into an Open Access Transmission Tariff for NSPI.

c. Beginning of a review of NSPI's outage response to the storm event of November 13 and 14, 2004.

d. A hearing to approve rates, tolls and charges and terms of service for provision of natural gas by Heritage Gas Limited.

e. Completion of a decision to consider the application of the Town of Antigonish to annex a portion of the County, and the County of Antigonish to amalgamate with the Town.

f. Completion of a decision relating to a natural gas distribution franchise for Strait Area Gas Corporation.

g. Completion of a decision relating to an assessment appeal by Homco Realty Fund (20) Limited relating to a commercial property located on Brunswick Street in Halifax.

h. Introduction of a new human resources policy for Board staff.

17. While the above items were the most significant activities in terms of impact on large numbers of taxpayers or ratepayers and consumption of Board resources, there are a large number of matters - such as appeal hearings, hearings related to public passenger matters, capital expenditure approvals, licensing applications - which cumulatively make up the bulk of the Board's work.

Mission

18. The mission of the Nova Scotia Utility and Review Board is to carry out the mandate assigned to it by government through statute and regulation.

Core Activities

19. Quasi-judicial Function. This is the primary function of the Board - to carry out those responsibilities delegated by the Legislature pursuant to various statutes.

20. Motor Carrier (Public Passenger) Administration. This involves safety inspection, licensing administration, and enforcement functions relating to the public passenger industry and some not-for-profit organizations.

Priorities and Goals

Core Area 1: Quasi-judicial Function

Priority 1 - Maintain a sufficient number of Board members with an appropriate mix of expertise in order to effectively carry out the assigned mandate.

21. The number of full-time members declined to six from eight during the year. The Chair recommended government appoint two full-time members – one a legal professional and the other a financial professional. Government concurred with the recommendation and, subsequent to the reporting period for this accountability report, two new members were appointed.

Priority 2 - Maintain a support infrastructure sufficient to ensure that hearings and decision making operations are not impaired. This includes ensuring sufficient advisory and administrative staff are available and that there are adequate hearing and office facilities.

22. The Advisory Group was restructured during the year and the position of Team Leader introduced. Advisory staff provide technical advice to members and Board legal council as well as investigate certain complaints. The changes made to the staff structure are expected to result in improvements in workload management, effective followup of Board directives, and quality of support to the members.

23. As noted in the 2003-04 Accountability Report the Board's hearing and office facilities were not felt to be adequate to provide the desired level of service. A solution has been found and improvement of the facilities will be completed in the 2005-2006 fiscal year.

Priority 3 - Ensure operations are being conducted in the most efficient manner possible within legal and resource limitations.

24. During the year the Board began a review of its hearing procedures, rules, regulations, and related administrative processes. The review involves government, legal and industry stakeholders and is expected to be complete in fiscal 2005-2006.

Priority 4 - Maintain essential independence.

25. An important characteristic of the Board is its independence from control or significant influence by others. Parties applying or appealing to the Board must be satisfied that the Board and its members are independent both in fact and in appearance in order for the decision process to have credibility. The Board continues to operate as an independent entity and no significant changes have occurred that would alter this.

Priority 5 - Maintain sufficient administrative capability to satisfy agreed on support to other agencies, boards and commissions.

26. The Board continues to provide office space, information systems and some other administrative support to the Nova Scotia Police Commission and the Nova Scotia Police Review Board. Current staff levels are sufficient to satisfy the agreed support arrangements.

27. During the year an unforecasted project was introduced to implement a new human resource policy for Board staff. This project is expected to be completed during fiscal 2005-2006.

Core Area 2: Motor Carrier (Public Passenger) Administration.

Priority 1 - Maintain current inspection and inspection co-ordination levels to meet the requirement to inspect all public passenger vehicles twice annually.

28. All vehicles in service have been inspected every six months. Inspection capability was sufficient to meet requirements during the year, however, demand for service continues to grow and appointment of up to two additional inspectors to fill approved vacant positions is likely during the 2005-2006 fiscal year.

Priority 2 - Maintain sufficient enforcement capability to be able to respond to complaints.

29. All complaints received in the Motor Carrier Division have been addressed with the related carrier or are in process as required by current divisional standards.

Priority 3 - Continue updating the 14 year old computerized inspection and licensing system and associated business processes in order to minimize costs associated with licensing administration, provide inspection staff with accurate and timely information critical to their activities, and avoid failure due to technological obsolescence.

30. Initial design work for upgrade of the existing computerized licensing system was begun during the year and is expected to continue for approximately 18 to 24 months.

Priority 4 - Maintain necessary level of trained staff for administration of licensing and inspection information systems..

31. The level of administrative staffing remains constant and was sufficient for 2004-2005

operations.

> *Priority 5 - Continue review of existing procedures regarding inspections and business processes to ensure costs are minimized and no unnecessary administrative burden is placed on stakeholders.*

32. This review has been suspended indefinitely as staff have been assigned to other higher priority activities. Some business process reviews will be done in conjunction with the update of the computerized licensing system.

Budget Context

Nova Scotia Utility and Review Board - Estimated Budget Expenditures by Core Business		
Core Business (all)	Budget Fiscal Year 2004-2005	Actual Fiscal Year 2004-2005
	000's	000's
Revenues:		
Grant from Province of Nova Scotia	2,882.0	2,882.0
Recoveries from utilities and others	1,490.3	3,015.4
Total Revenues	4.372.3	5,897.4
Expenditures:	4,406.4	5,595.7
Expected net income (loss)	(34.1)	301.7
General surplus, beginning of year (restated)	0.0	0.0
Net income (loss)	(122.1)	301.7
Transfers from (to) restricted surplus	122.1	(301.7)
General surplus, end of year	0.0	0.0
Restricted surplus, beginning of year (restated)	472.0	349.9
Transferred (to) from general surplus	(122.1)	301.7
Restricted surplus, end of year	349.9	651.6
Salaries and benefits	3,141.0	3,028.4
Funded members and staff (FTE's)	46.0	46.0

33. Higher than forecasted expenditures and recoveries relate primarily to unbudgeted direct costs of hearings. For larger proceedings out-of-pocket expenditures for items such as expert witnesses, hearing facilities, and legal fees are, in many cases, recovered from one or more parties to the proceeding.

Measuring Performance

34. Performance measurement in a quasi-judicial context must be carefully designed due to the "custom" or "one-time" nature of many applications and appeals. For example, some hearings require reviews of large amounts of evidence, involve many parties, and can take a number of months to schedule and complete. Other matters may only require the review of small amounts of evidence and, after scheduling, need a few days to complete. Regardless of the type of hearing the primary emphasis must always be on producing an unbiased, timely, fair and legally correct decision based on the specific facts of each case. During the year the Board established a performance target to have substantially all of its decisions released within 90 days of the date final submissions are received.

35. The following were felt to be reasonable measures for the 2004/05 planning period:

Quasi-judicial Function

Improve efficiency in carrying out the Board's legal mandate by:

a. Initiating a review of the Board's case management processes.

b. Initiating a project to examine the feasibility and benefits of using electronic filings of documents in proceedings before the Board.

c. Complete and have approved a new records management program.

36. The review of the case management was initiated as intended and is expected to be complete during the 2005-2006 fiscal year. The review considers rules, hearing procedures, regulations, and related administrative processes. The review involves government, legal and industry stakeholders.

37. A project to examine the feasibility and benefits of using an electronic filing system was initiated in early 2005 and will continue into fiscal 2005-2006.

38. Development of a new records management program has been deferred until at least fiscal 2005-2006.

Continue to examine organization and measurement in other administrative

bodies for other relevant and useful outcome measures.

39. At the end of the reporting period the Board had informally reviewed measures in a selection of other administrative bodies and determined that setting a target of releasing decisions not later than 90 days from the date of receipt of final submissions was appropriate. In addition, a target of deciding routine interlocutory matters within 10 days was also being considered. These measures were subsequently formalized as policy in April 2005, shortly after the reporting period.

Ensure all public passenger vehicles are safety inspected twice annually and no vehicle is kept from service awaiting inspection.

40. As noted above, all vehicles were inspected every six months. The Board is not aware of any vehicle kept from service awaiting regular inspection.

Examine organization and measurement in other administrative bodies for other relevant and useful outcome measures.

41. The study of measurement tools in use in other jurisdictions and boards was continued during the year but is not expected to be complete until fiscal 2005 - 2006.

Complete a review of the motor carrier inspection and business processes to ensure maximum efficiencies are realized.

42. This review has been suspended indefinitely as staff have been assigned to other higher priority activities. Some business process reviews will be done in conjunction with the update of the computerized licensing system.

Appendix A
Nova Scotia Utility and Review Board
List of Statutes Containing Board Mandate

Assessment Act, R.S.N.S. 1989, c.23 as amended
Education Act, S.N.S. 1995-96, c.1 as amended
Electrical Installation and Inspection Act, R.S.N.S. 1989, c. 141, s.1 as amended
Energy Resources Conservation Act. R.S.N.S., 1989, c.147, s. 1 as amended
Expropriation Act, R.S.N.S. 1989, c. 156, s. 1 as amended
Fire Safety Act, S.N.S. 2002, c.6
Gaming Control Act (Part II), S.N.S. 1994-95, c. 4 as amended
Gas Distribution Act, S.N.S., 1997, c. 4 as amended
Halifax-Dartmouth Bridge Commission Act, R.S.N.S. 1989, c.192 as amended
Heritage Property Act, R.S.N.S. 1989, c.199, s. 1 as amended
Liquor Control Act, R.S.N.S. 1989, c.260 as amended
Motor Carrier Act (public passenger only), R.S.N.S. 1989, c.292 as amended
Motor Vehicle Transport Act of Canada, 1987, S.C. 1987, c.35(Federal) as amended
Municipal Government Act, S.N.S. 1998, c.18 as amended
Nova Scotia Power Finance Corporation Act, R.S.N.S. 1989, c.351 as amended
Nova Scotia Power Privatization Act, S.N.S. 1992, c.8 as amended
Petroleum Resources Act, R.S.N.S. 1989, c. 342 as amended
Petroleum Resources Removal Permit Act, S.N.S. 1999 c.7 as amended
Pipeline Act, R.S.N.S. 1989 c. 345 as amended
Public Utilities Act, R.S.N.S. 1989, c.380 as amended
Railways Act, R.S.N.S. 1993, c.11 as amended
Theatre and Amusement Act, R.S.N.S. 1989, c. 466 as amended
Underground Hydrocarbons Storage Act, S.N.S. 2001, c. 37
Utility and Review Board Act, S.N.S. 1992, c. 11 as amended
Victims' Rights and Services Act, R.S.N.S. 1989, c.14 as amended